

SUPREME COURT OF NOVA SCOTIA
Citation: Pink v. Lohnes-Davis, 2014 NSSC 304

Date: 20140822
Docket: Bwt. 333895
Registry: Bridgewater

Between:

Joan E. Pink

Plaintiff

- and -

June M. Lohnes-Davis and Allan N. Davis

Defendants

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SUBJECT: Real Property - Title - Boundaries - Determination of Boundary
Real Property - Easements, Licences and Prescriptive Rights - Use of Right of
Way - Interference with Right of Way

SUMMARY: The plaintiff owned land the western boundary of which was the edge of a Right
of Way. The plaintiff renovated the cottage on the land. A dispute arose as to the

location of the boundary. The owners of the Right of Way disputed the use made of the Right of Way by the plaintiff. The defendants erected a fence along the Right of Way adjacent to the plaintiff's cottage. The plaintiff claimed the defendants interfered with her use of the Right of Way and sought damages.

The defendants seek an injunction to stop the plaintiff from using their property for more than ingress and egress and damages for emotional stress, trespass and interference with their property.

ISSUES: What is the location of the boundary between the properties? What is the extent of the plaintiff's Right of Way and did the defendants interfere with the plaintiff's use? Are the defendants entitled to damages for trespass and interference with the use of their property?

RESULT: The boundary as surveyed by the plaintiff's surveyor is the boundary line between the properties. The Right of Way is much broader than the right of ingress and egress. The plaintiff has the same rights as the owner of the servient tenement. The defendants interfered with the plaintiff's use of the Right of Way and are to remove the fence along the edge of the Right of Way and pay damages to the plaintiff. The defendants' claim for emotional stress, trespass and interference with the enjoyment of their property is dismissed as are the other claims of the defendants.